**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.3470 OF 1999**

Janardan Ramchandra Chowdhari .. Petitioner
V/s
Commissioner, Food and Drugs
Administration, Maharashtra State & Anr .. Respondents
...

Mr.R.S.Apte for the Petitioner.
Mr.Vinay Sonpal, AGP for Respondent Nos.1 & 2.

...

**CORAM : B.H.MARLAPALLE & NARESH H.PATIL, JJ.**
**DATE : 13th September, 2006.**

**P.C.:**

1. We have heard Mr.Apte, the learned Counsel for the Petitioner and with his assistance we have gone through the impugned judgment and decison of the Division Bench of the Maharashtra Administrative Tribunal dated 24.4.1998 whereby the Petitioner's Transfer Application No.512 of 1991 was dismissed.

2. The Disciplinary Authority being the Commissioner, Food & Drugs Administration by his order dated 29.7.1989 had terminated the services of the Petitioner based on the Enquiry Officer's report. Being aggrieved by the said termination order the Petitioner had filed an Appeal before the Secretary to the Govt.of Maharashtra in Medical Education and Drugs Department, which came to be dismissed on 18.12.1989. Aggrieved thereby the Petitioner had filed a Writ Petition in this High Court which was transferred to the Maharashtra Administration Tribunal as a Transfer Application No.512 of 1991. The Maharashtra Administrative Tribunal by its judgment and

order dated 24.4.1998 dismissed the Transfer Application No.512 of 1991, and aggrieved thereby the Petitioner has filed the present Petition.

3. In our opinion, it was necessary for the Maharashtra Administrative Tribunal to pass a reasoned order setting out as to how the charges viz.Charges Nos.1 & 3 were held to be proved by the Enquiry Officer on referring to the evidence adduced before him. This has not been done, while the majority portion of the judgment only reproduces various judgments of the Apex Court. In Paragraph Nos.6 & 7 of the judgment impugned before us, there is a reference to the report submitted by the Enquiry Officer, but, no reasons have been set out as to how the Tribunal accepted the Enquiry Officer's report by considering the evidence adduced before him. The proportionality of the order of punishment dismissing the Petitioner from service is an issue which may not fall within the scope of a judicial review under the powers of the Tribunal, but that apart, it was necessary for the Tribunal to consider the evidence while accepting the findings recorded by the Enquiry Officer. The impugned judgment and order is therefore unsustainable and we have to allow the petition partly and remand the TA No.512 of 1991 to the Maharashtra Administrative Tribunal for fresh hearing and decision.

4. In the result, the Petition succeeds partly and the judgment and order dated 27.4.1998 rendered by the Division Bench of the Maharashtra Administrative

Tribunal in T.A.No.512 of 1991 is hereby quashed and set aside. T.A.No.512 of 1991 is hereby restored and remanded to the file of the Maharashtra Administative Tribunal, Mumbai Bench, for fresh hearing, and we expect that the T.A.512 of 1991 will be heard and decided by the Maharashtra Administrative Tribunal as expeditiously as possible and preferrably within a period of three months from the receipt of writ from this Court.

**(NARESH H.PATIL,J.)** **( B.H.MARLAPALLE, J.)**